

1 | **SAMPSON & ASSOCIATES**

2 | Bryan D. Sampson (#143143)

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3 | San Diego, CA 92101

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4 | Attorneys for Creditor BRADLEY PROULX

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1 See Exhibit "1" & Declaration of Bryan D. Sampson. As the court can see, Debtor's
 2 unsecured claims exceed the maximum limits of 11 U.S.C. §109(e). The Court is
 3 required to include all of the foregoing unsecured claims in calculating whether
 4 Debtor is entitled to Chapter 13 relief. See Barcal v. Laughlin, 213 B.R. 1008 (8th
 5 Cir. BAP 1997) and See e.g. Nicholes v. Johnny Appleseed, 184 B.R. 82 (9th. Cir.
 6 BAP 1995). In essence, the claims are liquidated and must be included in the
 7 calculations. As such, Debtor is not entitled to Chapter 13 relief.

8 **The Debtor's Bankruptcy Was Filed in Bad Faith**

9 An alternative basis for the court to dismiss Debtor SARA NEWSOME
 10 BURNS' Chapter 13 action is because of her improper purpose for filing this action.
 11 Specifically, the following actions by the Debtor reveal her improper motives:

- 12 1. She filed a Chapter 13 immediately after Creditor seized his monies;
- 13 2. She prepaid over \$4,482 in living expenses;
- 14 3. She paid over \$70,000 in taxes from Creditor's monies before filing;
- 15 4. She had threatened to file this action if Creditors took collection actions; &
- 16 5. She has made repeated errors/omissions in her notices and schedules:
 - 17 a. She failed to list over \$148,000 in cash on her original petition
 (instead, she listed less than \$50,000 total cash); and
 - 18 b. She failed to list unsecured creditors.

20 See Exhibits "1 - 3" and attached Declaration of Bryan D. Sampson. As such, the
 21 Debtor's Chapter 13 filing is in bad faith and should be dismissed.

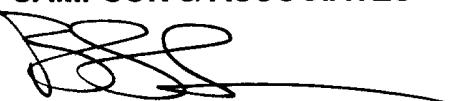
22 **CONCLUSION**

23 Based upon the foregoing, Creditor PROULX hereby joins the Chapter 13
 24 Trustee's motion to dismiss Debtor SARA NEWSOME BURNS' Chapter 13 filing.

25 DATED: March 12, 1999

SAMPSON & ASSOCIATES

26 By:


 27 Bryan D. Sampson
 28 Attorney for Judgment Creditor
 BRADLEY PROULX